

224



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,397	08/23/2001	Jason Benfield	AUS920010427US1	9831
35525	7590	11/05/2004	EXAMINER	
IBM CORP (YA)			JACOBS, LASHONDA T	
C/O YEE & ASSOCIATES PC			ART UNIT	
P.O. BOX 802333			PAPER NUMBER	
DALLAS, TX 75380			2157	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/935,397

Applicant(s)

BENFIELD ET AL.

Examiner

LaShonda T Jacobs

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) <sup>o</sup>
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date August 23, 2001. <sup>o</sup>
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaishnavi et al (hereinafter, "Vaishnavi", 5,734,642) in view of Kekic et al (hereinafter, "Kekic", 6,664,978).

As per claims 1, 18 and 35, Vaishnavi discloses a method, computer program product and system for discovering status of a network topology, comprising the steps of:

- a plurality of alternative discovery methods (col. 5, lines 44-63);
- establishing an order in which the alternative discovery methods should be performed (col. lines 5, lines 44-63 and col. 7, lines 52-62); and
- executing the alternative discovery methods in the established order (col. lines 5, lines 44-63 and col. 7, lines 52-62).

However, Vaishnavi does not explicitly disclose:

- a menu.

Kekic discloses a client server computer network management system including:

- a menu (col. 14, lines 21-38, col. 32, lines 48-67, col. 33, lines 1-7, lines 37-59, col. 35, lines 30-39 and col. 42, lines 30-38).

Given the teaching of Kekic, it would have been obvious to one of ordinary skill in the art to modify Vaishnavi by creating a menu to store information about devices being monitored on a

Art Unit: 2157

network in order to allow a user to visually monitor and manage the devices in timely and efficient manner.

As per claims 8, 25 and 36, Vaishnavi discloses a method, computer program product and system for discovering status of a network topology, comprising the steps of:

- discovering a status for an existing network topology (col. 6, lines 12-25 and col. 7, lines 52-62); and
- determining a policy based on a network response time, wherein the network response time is further based on at least one of a previous status of the existing network topology and a discovery event (col. 4, lines 49-67, col. 5, lines 1-16 and col. 6, lines 27-36).

However, Vaishnavi does not explicitly disclose:

- determining a next discovery action based on an event.

Kekic discloses a client server computer network management system including:

- determining a next discovery action based on an event (col. 17, lines 3-34 and col. 19, lines 37-57).

Given the teaching of Kekic, it would have been obvious to one of ordinary skill in the art to modify Vaishnavi by implementing event rules to determine if an event has occurred and what action to take in order to allow a user to monitor and manage network devices in a timely and efficient manner.

As per claims 2 and 19, Vaishnavi further discloses:

- maintaining a record of devices in the network which are discovered through a first discovery method (col. 5, lines 44-63); and

Art Unit: 2157

- removing those devices in the record from discovery through a second discovery method (col. 8, lines 19-37).

As per claims 3 and 20, Vaishnavi further discloses:

- maintaining a dynamically gathered record of devices which are compliant to at least one of a first discovery method and a second discovery method (col. 6, lines 12-25); and
- using an appropriate discovery method according the record (col. 5, lines 44-63 and col. 7, lines 52-62).

As per claims 4 and 21, Vaishnavi further discloses:

- altering the established order the devices in the network according to a first number of devices compliant to the first discovery method and a second number of devices compliant to the second discovery method according the record (col. lines 5, lines 44-63 and col. 7, lines 52-62).

As per claims 5 and 22, Vaishnavi discloses:

- wherein the alternative discovery methods are at least one of a simple network management protocol (SNMP), an Internet protocol packet Internet Groper (IP ping), a point-to-point over Ethernet (PPPoE), and a dynamic host configuration protocol (DHCP) (col. 5, lines 23-42).

As per claims 6 and 23, Vaishnavi further discloses:

- modifying the established order of the alternative discovery methods based on a predetermined criteria (col. lines 5, lines 44-63 and col. 7, lines 52-62).

As per claims 7 and 24, Vaishnavi further discloses:

- enabling a mixture of the alternative discovery methods (col. 5, lines 44-63).

Art Unit: 2157

As per claims 9 and 26, Vaishnavi discloses:

- wherein the event is one of a data gathering event, a discovery event and a configuration event (col. 7, lines 52-62).

As per claims 10 and 27, Vaishnavi discloses:

- wherein determining the policy based on a network response time is determined by count of devices within the network (col. 4, lines 49-67 and col. 5, lines 1-16).

As per claims 11 and 28, Vaishnavi discloses:

- wherein determining the policy based on a network response time is determined by relative abilities of devices in the network (col. 4, lines 49-67 and col. 5, lines 1-16).

As per claims 12 and 29, Vaishnavi further discloses:

- storing a status for the existing network topology (col. 4, lines 10-22); and
- developing an order of relative capabilities for a managed device as compared to other device or devices in the network (col. lines 5, lines 44-63 and col. 7, lines 52-62).

As per claims 13 and 30, Vaishnavi discloses:

- wherein discovering a status for an existing network topology further includes employing a single device status gathering technique if count of devices left to discover is less than a predetermined amount (col. 6, lines 12-25 and col. 7, lines 52-62).

As per claims 14 and 31, Vaishnavi discloses:

- wherein the status gathering technique is an Internet protocol packet Internet Groper (IP ping) (col. 5, lines 23-42).

As per claims 15 and 32, Vaishnavi discloses:

Art Unit: 2157

- wherein discovering a status for an existing network topology further includes employing a multiple device status gathering technique if a count of devices left to discover is more than a predetermined amount (col. 6, lines 12-25 and col. 7, lines 52-62).

As per claims 16 and 33, Vaishnavi discloses:

- wherein the status gathering technique is a simple network management protocol (SNMP) (col. 5, lines 23-42).

As per claims 17 and 34, Vaishnavi discloses:

- wherein discovering a status for an existing network topology includes determining a best order to discover the status for the existing network topology (col. 6, lines 12-25 and col. 7, lines 52-62).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,018,567 to Dulman

U.S. Pat. No. 6,411,997 to Dawes

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T Jacobs whose telephone number is 703-305-7494.

The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs  
Examiner  
Art Unit 2157

ltj  
October 31, 2004

  
MOUSTAFA M. MEKY  
PRIMARY EXAMINER